OF PARTNERSHIP PROPERTY. — A. and B. were co-partners. B., without the knowledge, consent, or authority of A., sold all the partnership property to C. *Held*, that A. may maintain trover against B. and C. *Weiss* v. *Weiss*, 133 N. Y. Supp. 1021 (Sup. Ct.)

One tenant in common cannot generally sue his co-tenant in trover for withholding use of the common property, since each has a right to possession. *Bohlen* v. *Arthurs*, 115 U. S. 482, 6 Sup. Ct. 114. See *Brown* v. *Hedges*, 1 Salk. 290. For a destruction of the chattel trover lies. *Herrin* v. *Eaton*, 13 Me. 193. In this country, the action is usually allowed even in the case of a sale by a co-tenant. *White* v. *Osborne*, 21 Wend. (N. Y.) 72; *Goell* v. *Morse*, 126 Mass. 480. But see *Mayhew* v. *Herrick*, 7 C. B. 229, 246. Whether the purchaser from the co-tenant is liable in trover is a question which has produced a conflict, but on principle it seems that each has been guilty of conversion in assuming to own the chattel and to deal with it as his own. *Weld* v. *Oliver*, 38 Mass. 559. *Contra*, *Osborne* v. *Schenck*, 83 N. Y. 201. Co-tenants, however, have no authority to sell the common property, whereas each partner may sell all the firm assets. See *Wilson* v. *Reed*, 3 Johns. (N. Y.) 175, 179; *Mabbett* v. *White*, 12 N. Y. 442. On this ground courts have held that one partner cannot sue another in trover for a sale of firm property. *Montjoys* v. *Holden*, Litt. Sel. Cas. (Ky.) 447; *Mason* v. *Tipton*, 4 Cal. 276. This reasoning seems insufficient, since the authority, as between the partners, is to sell only for partnership purposes. But the wrong is to the partnership. *Homer* v. *Wood*, 11 Cush. (Mass.) 62. Trover may prove inadequate, as there is no assurance that the fraudulent partner is not owed more by the firm than the damages from the wrong. See *Sweet* v. *Morrison*, 103 N. Y. 235, 241, 8 N. E. 396, 398. These rights can be adjusted satisfactorily only by an accounting in equity. See PARSONS, PARTNERSHIP, 4 ed., 304.

POWERS — INTENTION TO EXECUTE SPECIAL POWER. — The testatrix had a testamentary power of appointment among her children. By her will she gave, devised, bequeathed, and appointed her residuary real and personal estate (including all property over which she had a power of appointment) to trustees to pay debts and stand possessed of the residue in trust for her husband for life and then for her children equally. *Held*, that the power is not exercised by the will. *Re Sanderson*, 106 L. T. 26 (Eng., Ch. D., Feb. 9, 1912).

In order to exercise a testamentary power a will must, at common law, contain a sufficient reference to the power to show an intention to exercise it. The use of the verb "appoint," especially when coupled with the express inclusion, in a general gift, of "all property over which I have a power of appointment," would undoubtedly be a sufficient reference in the case of a general power. See *In re Richardson's Trusts*, L. R. 17 Ir. 436, 443. Such words also show an intention to execute a special power. *In re Mayhew*, [1901] 1 Ch. 677. But other parts of the will may tend to negative this intention. Thus putting the appointed property in a common fund with other property and providing for its conversion is not consistent with an intention to execute a special power. *In re Weston's Settlement*, [1906] 2 Ch. 620. So also if the gift is to others as well as to the objects of the power, or provides for payment of debts. *Ames* v. *Cadogan*, 12 Ch. D. 868. The English judges have differed as to whether these considerations outweigh the effect of the word "appoint." *In re Swinburne*, 27 Ch. D. 696; *In re Cotten*, 40 Ch. D. 41. The present case is one of the strictest.

RAILROADS — LIABILITY OF LESSOR RAILROAD FOR UNREASONABLE DISCRIMINATION BY LESSEE. — In an action of trespass for unreasonable discrimination in not granting the plaintiff siding facilities, the defendant corporation pleaded that prior to the alleged discrimination it had turned the entire management and control of its railroad over to another corporation

under a long lease authorized by the state, and that the discrimination was practised by the lessee alone. *Held*, that the plaintiff cannot recover. *Moser* v. *Philadelphia, H. & P. R. Co.*, 82 Atl. 362 (Pa.). See NOTES, p. 726.

RESTRAINT OF TRADE — SHERMAN ANTI-TRUST LAW — REGULATION OF MONOPOLY. — The defendant Terminal Railroad Association of St. Louis, owned by eight of twenty-four competing railroads, was a combination of independent terminal systems. By reason of topographical conditions, complete control over all possible terminal facilities was obtained. The terminal company consistently made arbitrary charges. The United States brought a bill in equity to enforce the provisions of the Sherman Act. *Held*, that the terminal association be not dissolved, if, (1) it admit any existing or future railroad to joint ownership and control, (2) provide for use of the terminal facilities on reasonable terms to railroads, and (3) cease its practices of arbitrary charges. *United States* v. *Terminal R. Association of St. Louis*, 32 Sup. Ct. 507. See NOTES, p. 717.

RULE AGAINST PERPETUITIES — TIME OF VESTING TOO REMOTE: WHETHER VESTING WILL BE ACCELERATED. — A testator left the residue of his estate to trustees, the same to vest in his grandchildren when the youngest of his living or after-born grandchildren arrived at the age of forty. An after-born grandchild was the youngest, and arrived at the age of twenty-one. The testator's children were still living. *Held*, that the grandchildren are not yet entitled to the estate. *Barker* v. *Eastman*, 82 Atl. 166 (N. H.).

This case is the result of a former decision under the same will. *Edgerly* v. *Barker*, 66 N. H. 434, 31 Atl. 900. It was there decided that this limitation to the grandchildren was not void, and the court expressed the opinion that the property would vest in the grandchildren when the youngest arrived at twenty-one, which would be at a period not too remote. See *Edgerly* v. *Barker*, 66 N. H. 434, 475, 31 Atl. 900, 916. Though this event has happened, yet the court in the principal case states that the property will not vest until the youngest grandchild attains forty, or the children of the testator die, whichever event happens first. No other court has followed the New Hampshire rule as to remoteness. *Cf. Hussey* v. *Sargent*, 116 Ky. 53, 75 S. W. 211. See 9 HARV. L. REV. 242.

SALES — CONDITIONAL SALES — EFFECT ON SELLER'S TITLE OF TRANSFER OF NOTES GIVEN FOR PRICE. — A seller sold an automobile on condition that title should remain in him until the promissory notes given for the price should be paid. The seller transferred the notes to the plaintiff, who, on the notes not being paid, sued in replevin for the automobile. *Held*, that the plaintiff can recover. *Zederman* v. *Thomson*, 121 Pac. 609 (N. M.).

For a discussion of the principles involved, see 25 HARV. L. REV. 462.

SPECIFIC PERFORMANCE — PARTIAL PERFORMANCE WITH COMPENSATION — REFUSAL OF WIFE TO RELEASE INCHOATE RIGHT OF DOWER. — In a suit for specific performance, the plaintiff joined the defendant's wife who was not a party to the contract. *Held*, that she is a proper party, for if she refuses to release dower and the plaintiff elects to accept partial performance with compensation, her inchoate right of dower must be valued and deducted from the purchase price. *O'Malley* v. *Miller*, 134 N. W. 840 (Wis.). See NOTES, p. 731.

TRADE UNIONS — INDUCING WORKMEN TO LEAVE OTHERWISE THAN BY STRIKE — PAYMENT OF MONEY TO NON-UNION EMPLOYEES. — The officials of a labor union ordered a strike to force the employer to recognize the union. Members of the union paid non-union employees bonuses to induce them to